

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MARTÍN JONATHAN BATALLA VIDAL,
et al.,

Plaintiffs,

v.

KIRSTJEN M. NIELSEN, *et al.*,

Defendants.

No. 1:16-cv-04756 (NGG) (JO)

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

DONALD TRUMP, *et al.*,

Defendants.

No. 1:17-cv-05228 (NGG) (JO)

MOTION TO ADJOURN JANUARY 8, 2018 STATUS CONFERENCE

In accordance with the Court’s September 27, 2017 Case Management and Scheduling Order, *Batalla Vidal* ECF No. 67, Defendants respectfully request that the status conference in these matters currently scheduled for this Monday, January 8, 2018, be adjourned. As good cause for this request, which Plaintiffs apparently do not oppose, *see infra* ¶ 9, Defendants offer the following:

1. Pursuant to this Court’s December 28, 2017 Order, *Batalla Vidal* ECF No. 217, a status conference in these matters is set for this Monday, January 8, 2018, at 3:00 p.m. The purpose of this status conference is to discuss the administrative record and to “set a schedule for the

expedited completion of all discovery should the court determine that discovery may progress.”
Id.

2. On Saturday, December 30, 2017, the district court entered an order that stayed any “[r]ecord supplementation and discovery” in these matters, “pending consideration of Defendants’ motion for certification of [the district court’s] November 9, 2017, order for interlocutory appeal.”

3. As a result of that stay, yesterday, on January 4, 2018, the parties did not file the joint proposed discovery plan that had been previously ordered by this Court. *See Batalla Vidal* ECF No. 217.

4. Plaintiffs filed their opposition briefs to Defendants’ motion for certification of an interlocutory appeal on Wednesday, January 3, 2018. Defendants intend to file a reply brief this evening. *Batalla Vidal* ECF No. 227.

5. Because discovery and record supplementation have been stayed by Judge Garaufis, there are currently no active discovery or record-related disputes to be resolved by this Court, nor would it be possible “to set a schedule for the expedited completion of all discovery” at this time. And the parties have neither conferred about nor submitted any joint discovery proposal. Therefore, there is currently no need for this Monday’s status conference.

6. If, at some future date, the stay issued by Judge Garaufis is lifted, Defendants are willing to confer promptly with both sets of Plaintiffs and submit a joint proposal regarding further proceedings in these matters.

7. Granting the requested relief will not effect any other deadlines.

8. This is the fifth request for an adjournment in these matters. On October 23, 2017, this Court granted a similar request, *Batalla Vidal* ECF No. 92, with respect to the status conference that had been scheduled for October 25, 2017. On November 6, 2017, this Court

granted another similar request, *Batalla Vidal* ECF No. 103, with respect to the status conference that had been scheduled for November 8, 2017. On November 28, 2017, this Court granted in part and denied in part a third similar request, *Batalla Vidal* ECF No. 110, noting that, as to the December 13, 2017 status conference, the motion was “premature,” but that the denial of that portion of the government’s motion was “without prejudice to renewal.” On December 11, 2017, this Court granted a fourth similar request, *Batalla Vidal* ECF No. 112, with respect to the status conference that had been scheduled for December 13, 2017.

9. Before filing this motion, Defendants asked whether Plaintiffs would join in it or, if not, what their position was on its filing. Plaintiffs apparently do not oppose the request; they asked that Defendants represent their position as follows: “The Batalla Vidal and State plaintiffs are prepared to appear at the status conference on January 8 as currently scheduled or on another date if the court wishes to reschedule.”

Dated: January 5, 2018

Respectfully submitted,

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